

TITLE 327 WATER POLLUTION CONTROL BOARD

IDEM'S SUGGESTED CHANGES TO PROPOSED RULE REGARDING CONFINED FEEDING OPERATIONS

LSA Document #00-235

Revisions made by LSA under the Administrative Rules Drafting Manual (IC 4-22-8-4(a)(2)) and incorporated into the printed version (LSA Document #00-235) have been made in the version of this rule presented to the board for final adoption. This is an amended version of IDEM's suggested changes and supercedes the version mailed with the board packet.

Page Citation and Description of Change

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| 1 | 1. 327 IAC 16-1-1(a)(2)
Delete the word " land ". Add the phrase " of manure onto the land " before the phrase " in Indiana ". Replace the phrase " of manure " with the phrase " that is ". Replace the word " from " with the word " by ". |
| 2 | 2. 327 IAC 16-1-2(a)(2)
Delete the existing language and replace with the following:
" The owner/operator of a confined feeding operation or other animal feeding operation shall develop an emergency spill response plan in accordance with 327 IAC 16-9-4(a) prior to the collection and storage of any manure. " |
| 2 | 3. 327 IAC 16-1-2(a)(3)
Delete subdivision (3). |
| 2 | 4. 327 IAC 16-1-2(b)
Insert the following as the first sentence of subsection (b):
" All confined feeding operation approvals issued prior to the effective date of this rule shall expire no later than five (5) years from the effective date of this rule unless an application for renewal has been submitted in accordance with 327 IAC 16-7-4.
Insert as the last sentence of subsection (b):
" Approval renewals shall be issued for a fixed term not to exceed five (5) years. " |
| 2 | 5. 327 IAC 16-1-4
Delete the language in this section and replace with the following:
" An approval under this article is intended to satisfy the environmental requirements under the Clean Water Act. The commissioner is not limited from requiring a NPDES permit under 327 IAC. " |
| 5 | 6. 327 IAC 16-2-11
Replace the word " flooring " with the word " bedding ". |
| 5 | 7. 327 IAC 16-2-12
Replace the phrase " animal confinement " with the phrase " confined feeding ". Delete |

- the second sentence.
- 6 8. 327 IAC 16-2-16.5
Add a definition of “**ground water**” as follows:
327 IAC 16-2-16.5 “Ground water” defined
Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30
- Sec. 16.5 “Ground water” means such accumulations of underground water, natural or artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this state, but excluding manmade underground storage or conveyance structures. (Water Pollution Control Board; 327 IAC 16-2-16.5)**
- 6 9. 327 IAC 16-2-17
Add the phrase “**soil type,**” after the word “**wind,**”.
- 8 10. 327 IAC 16-2-28
Add the phrase “**required by this article and**” after the phrase “**other animal feeding operation activities**”
- 9 11. 327 IAC 16-2-30(a)
In subdivision (1), delete “**or the livestock**” and the word “**or**” at the end of the provision. Add a new subdivision (2) to read as follows: “(2) **that owns the livestock at the confined feeding operation or other animal feeding operation and that applies for or has received an approval pursuant to this article; or**”. Renumber the former subdivision (2) to subdivision (3).
- 10 12. 327 IAC 16-2-35
Add the phrase “**water quality**” after the words “**where conditions exist that pose a specific**”.
- 12 13. 327 IAC 16-2-43(8)
Delete subdivision (8).
- 13 14. 327 IAC 16-3-1(c)
Replace the word “**control**” with the phrase “**prevent spills or**”. Delete the word “**unpermitted**”. Replace the phrase “**and spills,**” with the phrase “**in violation of the approval or this article,**”.
- 13 15. 327 IAC 16-3-1(e)
Add the phrase “**staged or**” before the word “**applied**” in the two places it is used.
- 15 16. 327 IAC 16-4-4
Change the word “**will**” to the word “**may**”. In subdivision (3), change the word “**category**” to the word “**type**”.
- 16 17. 327 IAC 16-6-1(b)

Change the word “**must**” to the word “**shall**”.

- 16 18. 327 IAC 16-6-1(b)(1)
At the end of this provision, add a comma and then the phrase “**except the owner/operator shall comply with 327 IAC 16-9-4 within ninety (90) days of the effective date of this rule**”.
- 17 19. 327 IAC 16-6-1(d)
Replace the date “**July 1, 2001**” with the date “**January 1, 2002**”.
- 17 20. 327 IAC 16-6-1(e)(1) and 327 IAC 16-6-1(e)(2)
Replace the date “**July 1, 2001**” with the date “**January 1, 2002**”.
- 17 21. 327 IAC 16-6-1(f)
Add subsection (f) to read as follows:
 (f) All confined feeding operation approvals issued prior to the effective date of this rule shall expire no later than five (5) years from the effective date of this rule unless a renewal application is submitted in accordance with 327 IAC 16-7-4. The commissioner may require existing confined feeding operations or animal feeding operations with an approval issued prior to the effective date of this rule to submit an application for an approval renewal in accordance with 327 IAC 16-1-2(b).
- 17 22. 327 IAC 16-7-1(b)
Replace the phrase “**new confined feeding operation or other animal feeding operation**” with the phrase “**confinement building**”. Delete the phrase “**an additional**”. Add the phrase “**a new or**” before the phrase “**an existing confined feeding operation or other animal feeding operation**”.
- 18 23. 327 IAC 16-7-2(b)(5)
Add the phrase “**for proposed liquid manure storage structures**” after the phrase “**information from test holes**”. Delete the phrase “**at least five (5) feet below the base of the proposed liquid manure storage structure and**”. Add the following as the last sentence of this provision:
 Test holes for concrete liquid manure storage structures must be at least two (2) feet below the base of the structure. Test holes for earthen liquid manure storage structures must be:
 (A) at least five (5) feet below the base of the structure for non-karst areas;
 or
 (B) in accordance with 327 IAC 16-8-1(b)(1) in areas of karst terrain or over mines.
- 18 24. 327 IAC 16-7-2(b)(11)
Replace the phrase “**protection of human health and the environment**” with the phrase “**compliance with this article**”.
- 18 25. 327 IAC 16-7-2(c)
Delete the phrase “**for the following**”. In (1), replace the word “**The**” with the words “**if**”

the”, and replace the period with a semicolon. In (2), delete the language and replace with “**consistent with IC 13-18-10-2.1; or**”. Add (3) as follows: “**(3) if the applicant does not meet the requirements of this article.**”

- 19 26. 327 IAC 16-7-2(d)
Add the phrase “**of the application**” after the phrase “**of the basis for denial**”. Replace the word “**placing**” with the phrase “**placement of additional**”.
- 19 27. 327 IAC 16-7-3(a)
Replace the phrase “**shall be issued**” with the phrase “**and approval renewal shall be effective**”.
- 19 28. 327 IAC 16-7-3(b)
Add a new first sentence to read as follows:
“**If the owner/operator wishes to continue the activity regulated by the approval after the expiration date of the approval, the owner/operator shall apply for and obtain an approval renewal.**”
- 19 29. 327 IAC 16-7-3(b)(1) and 327 IAC 16-7-3(b)(2)
Change the phrase “**a renewal**” to the phrase “**an approval renewal**”.
- 19 30. 327 IAC 16-7-4(a)
Add the word “**approval**” before the word “**renewal**” in the first sentence. Add the word “**approval**” before the second use of the word “**renewal**” in the last sentence. Delete the word “**previous**” in the first sentence.
- 20 31. 327 IAC 16-7-4(b)
Add the word “**approval**” before the word “**renewal**”.
- 20 32. 327 IAC 16-7-5(a)(2)
Delete the phrase “**or alternative management methods**”. Replace the phrase “**phosphorous in soils**” with the phrase “**application of manure to land**”.
- 20 33. 327 IAC 16-7-5(b)(4)
Change the reference to “**section 6**” to “**section 7**”.
- 20 34. 327 IAC 16-7-5(b)(5)
Delete the existing language and replace with the following:
“**(5) Corrections of typographical or other minor errors within the approval or other minor changes as determined by the commissioner.**”
- 24 35. 327 IAC 16-7-13(a)(2)
Change the last word of this provision, “**and**” to “**or**”.
- 24 36. 327 IAC 16-7-13(d)
Add the phrase “**relevant to applicable rules or laws**” after the phrase “**where environmental concerns**”.

- 25 37. 327 IAC 16-8-1(b)(1)
Delete the word “**uncovered**”.
- 25 38. 327 IAC 16-8-2(a)(2)
Add the phrase “**Except for subsection (b),**” to the beginning of the subdivision.
- 25 39. 327 IAC 16-8-2(b)
Add a new subsection (b) to read as follows:
“**(b) A solid manure storage structure that contains the manure and prevents storm water from entering the structure must be maintained to have a minimum setback of one hundred (100) feet from the features in (a)(2) of this section.**”
- 25 40. 327 IAC 16-8-2
Renumber subdivisions (b) through (e) as new numbers (c) through (f).
- 26 41. 327 IAC 16-8-2(f)
In new subsection (f), change the reference to subsection (d) to reference subsection (e).
- 27 42. 327 IAC 16-8-6(a)
Delete the phrase “**with a seepage of not more than one sixteenth (1/16) inch per day and must**” and replace with the word “**to**”.
- 29 43. 327 IAC 16-8-10(a)
In the second sentence, add the phrase “**designed for the one (1) year, one (1) hour precipitation event**” after the phrase “**low velocity channel**”.
- 29 44. 327 IAC 16-8-10(b)
Replace the phrase “**two (2)**” with the phrase “**twenty-five (25)**”.
- 31 45. 327 IAC 16-9-1(i)
Delete the phrase “**that crosses property lines or enters waters of the state**”.
- 31 46. 327 IAC 16-9-2
Delete the phrase “**the confined feeding operation, other animal feeding operation, or**”.
- 31 47. 327 IAC 16-9-3
Delete the phrase “**and manure**” in the section title and throughout the section.
- 31 48. 327 IAC 16-9-4(a)
Replace the word “**operations**” with the word “**operation**” in two places. Replace the first use of the word “**and**” with the word “**or**”. Delete subdivision (1)(A) and (1)(B).
- 32 49. 327 IAC 16-9-5(a)
Delete the phrase “**as needed**”. Change subdivision (1) to read as follows:
“**(1) All valid approvals, modifications, and notifications relevant to the approvals.**”

- 32 50. 327 IAC 16-9-5(b)
At the end of subdivision (1), add a comma and the phrase **“regarding completed self-monitoring records for three (3) years”**. Delete subdivision (2) and renumber the remaining subdivisions. At the end of the new subdivision (2), delete **“(c)”** and add a comma and the phrase **“regarding minimum acreage records”**. In new subdivision (3), replace **“(d)”** with **“(c)”**, and add the phrase **“regarding land application records”** before the phrase **“for five (5) years”**. In new subdivision (4), add the phrase **“regarding marketing and distribution records”** before the phrase **“for three (3) years”**. In new subdivision (5), add the phrase **“in accordance with section 4(a)(3) of this rule”** after the phrase **“any response implemented”**.
- 34 51. 327 IAC 16-10-3(c)(3)
Delete the phrase **“Natural Resources Conservation Service or”**.
- 34 52. 327 IAC 16-10-3(f)
In (1), delete **“Frozen ground with”** and replace with **“Surface application of manure to”**, add the word **“adequate”** before **“residue protection”**, and replace the phrase **“must not be used for application of liquid or solid manure”** with the phrase **“is prohibited on snow covered or frozen ground”**. Delete the language in (2) and replace as follows: **“Surface application to snow covered or frozen ground of manure from a new or modified operation approved after the effective date of this rule is prohibited, except as allowed in conditions established in a valid approval obtained under 327 IAC 16-7.”** Add a new (3) to read as follows: **“(3) Spray irrigation of liquid manure to snow covered or frozen ground is prohibited.”** Add a new (4) to read as follows: **“(4) Any manure application that causes a water quality violation is a violation of this article and will result in enforcement action.”**
- 35 53. 327 IAC 16-10-3(i)
Add a new subsection (i) to read as follows: **“(i) Manure shall not be applied on saturated ground.”**
- 35 54. 327 IAC 16-10-4(a), Table 1
Delete the comma and the phrase **“including water and sediment control basins”** from the second item under the column **“Known Feature”**.
- 36 55. 327 IAC 16-11-1(a)
Replace the phrase **“sections 3 and 4”** with the phrase **“section 3”**.
- 37 56. 327 IAC 16-11-2
Designate the sentence in this section as **“(a)”** and add a new (b) to read as follows:
“(b) A manure storage structure that has been temporarily shut down for three (3) years must be cleaned out in accordance with section 3(c)(1) and 3(c)(2) of this rule.”
- 37 57. 327 IAC 16-11-3(a)
Replace the word **“must”** with the word **“shall”**. In subdivision (1), add the phrase

“prior to expiration of the approval” after the phrase **“in this section”**. In subdivision (2), replace the phrase **“so that there is no release”** with the phrase **“in accordance with the requirements of the approval and this article.”**

- 37 58. 327 IAC 16-11-3(c)
Replace the word **“must”** with the word **“shall”**. Switch the order of subdivisions (2) and (3), and renumber and format accordingly.